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REMARKS

Claims 1-30 of the application stand rejected. Claims 7, 17 and 27 have been canceled herein without prejudice to the filing of continuations and/or divisionals. Additionally, Claims 1, 2, 8, 9, 11, 12, 18, 19 and 21, 22, 28 and 29 have been amended herein to more clearly define the scope of the presently claimed invention. Applicant respectfully requests reconsideration of pending Claims 1-6, 8-16, 18-26 and 28-30 in light of the amendments and remarks herein.

35 U.S.C. §102

Claims 1-5, 7-15, 17-25 and 27-30 are rejected under 35 U.S.C. §102 as being anticipated by Brown (U.S. Patent No. 5,461,709). The Examiner submits that Brown teaches all the elements of independent Claims 1, 11 and 21. Applicants respectfully traverse the rejection.

As a preliminary matter, Applicants respectfully submit that the rejection of Claims 1-5, 8-15, 18-25 and 28-30 is facially deficient because the Examiner has not established a *prima facie* case of anticipation. As is well-established, in order to establish a *prima facie* case of anticipation under 35 U.S.C. §102, the cited prior art must disclose every limitation of the claims being rejected. Therefore, if even one claim element or limitation is not disclosed by the combination of references, a *prima facie* case is not established. Additionally, as the Federal Circuit has noted,

“As adapted to ex parte procedure, Graham [v. John Deere Co.] is interpreted as continuing to place the 'burden of proof on the Patent Office which requires it to produce the factual basis for its rejection of an application under sections 102 and 103.”

In re Piasecki, 745 F.2d 1468, 1472, 223 USPQ 785, 788 (Fed. Cir. 1984) (citing *In re Warner*, 379 F.2d 1011, 1016, 154 USPQ 173, 177 (CCPA 1967)). The Examiner thus has the burden of producing a factual basis for his rejection and for establishing unpatentability by identifying how each recited claim element is allegedly disclosed by the cited reference. The Examiner has failed to establish such a *prima facie* case and has

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merely provided bare allegations that the reference anticipates the claims. For example, the Examiner recites each claim element in Claim 1, followed by a column number and lines in Brown, without any additional articulation. In other words, the Examiner highlights sections of Brown that allegedly show the claim elements, without any discussion or showing of how or why these sections in fact teach the claim elements. Applicants respectfully submit that this amounts to a mere allegation, without any factual basis or explanation, as required for the Examiner to establish a *prima facie* case. The Examiner's rejections of the other claims fare no better and include the same bare allegations of anticipation. Applicants therefore respectfully submit that the Examiner has failed to meet his burden of proof and requests the rejection of Claims 1-5, 8-15, 18-25 and 28-30 to be withdrawn for at least this reason.

In order to expedite substantive examination of the application, however, Applicants hereby address the Examiner's rejections in the Office Action dated March 28, 2006. Applicants respectfully submit that Claims 7, 17 and 27 have been canceled herein without prejudice to the filing of continuations and/or divisionals. As a result, the rejections to these claims are moot. With respect to remaining Claims 1-5, 8-15, 18-25 and 28-30, the Examiner rejected Applicants previously submitted arguments on the grounds that they are not persuasive. Specifically, the Examiner points to Col. 2 and Col. 8, lines 56 et seq. to show that Brown teaches a construction plane and other distinct and separate planes. The Examiner concludes from these sections that Brown does indeed teach a drag plane and a reference plain and rejects Applicants previously submitted arguments. Applicants respectfully traverse the Examiner's rejection.

Specifically, Applicants contend that regardless of whether Brown teaches multiple planes, it does not teach or suggest the use of the planes in the manner claimed. Applicants are not claiming the abstract idea of having multiple planes, but rather the specific claim of moving objects in a drag plane according to the elements listed in the claims. Thus, for example, Claim 1, as amended, includes the elements of: (i) selecting the object at an initial location using a first cursor; (ii) hiding the first cursor from view; (iii) causing the object to act as a second cursor; (iv) moving the second cursor from the initial location to a final location to move the object to the final location, moving the second cursor to the final location further comprising; (a) generating a reference plane

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extending through the initial location; projecting movement of the first cursor from the initial location to an interim point on the reference plane; (b) projecting the first cursor from the interim point on the reference plane to a the final location the drag plane; and (c) rendering the object on the drag plane at the final location. In other words, Applicants invention goes beyond simply the concept of using a drag plane and a reference plane and extends to how cursors are moved between these planes to move an object from a first location on a drag plane to a second location.

There is simply no showing in Brown of each of these claim elements and the Examiner has failed to show otherwise. As previously discussed, the Examiner has made no showing of how each of the elements in the claims is disclosed in Brown, relying instead on bare allegations. Applicants own review of Brown indicates that Brown does not teach various elements of the claims. For example, Brown does not teach the elements of hiding the first cursor from view and/or causing the object to act as a second cursor, as claimed in independent Claims 1, 11 and 21. Applicants therefore respectfully submit that Brown does not teach all the elements of independent Claims 1, 11 and 21. Similarly, since all claims dependant on Claims 1, 11 and 21 also incorporate these elements not taught by Brown, Applicants submit that Brown also does not anticipate the dependant claims in the application. Applicants therefore respectfully request the Examiner to withdraw the 35 U.S.C. § 102 rejections to pending Claims 1-5, 7-15, 17-25 and 27-30.

35 U.S.C. §103

Claims 6, 16 and 26 stand rejected under U.S.C. §103(a) as being unpatentable over Brown. Applicants respectfully traverse the Examiner's rejection of these claims.

Applicants respectfully point out that since Claims 6, 16 and 26 are dependant on independent Claims 1, 11 and 21, the above discussion with respect to the 35 U.S.C. § 102 rejection above is also applicable here. In other words, Applicants submit that since Brown does not teach all the elements of the independent, and the dependant claims incorporate all elements of the independent claims, Brown does not render any of the claims unpatentable. Applicant therefore submits that Claims 6, 16 and 26 are patentable

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CONCLUSION

Based on the foregoing, Applicants respectfully submit that the applicable objections and rejections have been overcome and that pending Claims 1-6, 8-16, 18-26 and 28-30 are in condition for allowance. Applicants therefore respectfully request an early issuance of a Notice of Allowance in this case. If the Examiner has any questions, the Examiner is invited to contact the undersigned at (714) 669-1261.

If there are any additional charges, please charge Deposit Account No. 50-0221.

Respectfully submitted,

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